

[Sri B. Parameswaran] [18th March 1955]

Board alone functions. However, Sir, it is not so. The Chairman proceeds with the meeting only after waiting for fifteen minutes for the arrival of other members. Only if they do not attend, he is empowered to carry on singly. I do not also want to go into that matter here. The matter is not one of urgent public importance as interpreted by the hon. Member under **rule 41** of the Council Rules. Then, Sir, the matter is *sub judice* and I think there will be no more reference to it or a detailed statement on it."

III.—GOVERNMENT BILLS.

(1) THE MADRAS PLANTATIONS AGRICULTURAL INCOME-TAX BILL, 1954 (L.A. BILL NO. 30 OF 1954)—*cont.*

Clause 43.

MR. CHAIRMAN :—" Motion moved—

'That clause 43 do stand part of the Bill.' "

DR. V. K. JOHN :—" Sir, I want that a new clause should be added after clause 43. I move—

'Add the following as clause 43-A :—

"43-A. Where any dividend has been paid to a shareholder of a company which is assessed to income-tax under this Act, such person shall be deemed in respect of such dividend to have paid income-tax at the rate applicable to the total income of the company in the financial year in which the dividend has been paid and shall be entitled to a refund of the tax paid in accordance with the principles followed in the Indian Income-tax Act."

This is a very important provision which ought to have been incorporated in the Bill. In section 48 of the Indian Income-tax Act, you will find a similar provision. That is :

'If any individual, Hindu undivided family, company, local authority, firm or other association of persons, or any partner of a firm or member of an association individually satisfies the Income-tax Officer or other authority appointed by the Central Government in this behalf that the amount of tax paid by him or on his behalf or treated as paid on his behalf for any year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of any such excess.'

Section 49-B provides that payment of income-tax by the company should be deemed as payment of tax by the share-holders. Now, Sir, the idea is that a share-holder who has not got any income which is assessable to tax should be enabled to get the tax paid by the company on his behalf back. The principle is simple. If four persons put their capital together and start a business, the income-tax authorities cannot collect the income-tax on the total income derived therefrom but can collect the tax only on the shares taken by the partners. So also, if a large number of persons join and put their money in a company incorporated under the Indian Companies Act or under any other Act, the

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income-tax paid by the company will be considered to have been paid on behalf of the shareholders and the shareholder is entitled to a refund if he has not got an assessable income. Now, Sir, you will find in Part I of the Schedule a provision to the effect that no agricultural income-tax shall be payable on a total agricultural income, which is less than three thousand rupees. It is a good provision. The idea is no man need pay income-tax unless his income is Rs. 3,000 or more. The same principle is applicable to a person whose total income is less than 3,000 rupees but on whose behalf the company, of which he is a shareholder, has already paid income-tax with reference to the dividend paid to him. The Indian Income-tax Act says such persons will get a refund of the tax. This principle is introduced in the Act for the purpose of saving people who have no taxable income from the burden of taxation and making persons who can pay bear it. If a widow gets as dividend Rs. 500 after a sum of about 300 rupees has been paid as income-tax on it, she is entitled to ask for a refund of that 300 rupees in view of the fact that she has not got an income which is assessable to tax. But in the case of a man who gets an income of a lakh of rupees, it should be different. Suppose he gets also a dividend of 500 rupees, he must be made to pay a super-tax on this 500 rupees so that the burden may be heavier on him. This is the principle followed in the Indian Income-tax Act and it is followed in the Travancore-Cochin Act also whose provisions are copied in this Bill word for word. The idea is to tax every person whether his income is taxable otherwise or not, whether his income is Rs. 3,000 or not. If a man gets Rs. 10 as dividend for his being a shareholder, then he has to pay the tax under this Act. This, I say, is oppressive. It is unknown to the principle of income-tax levy in any part of the world and even in our own country. Several other States have imposed a tax on agricultural income. But they have adopted the principle of the Indian Income-tax Act. But in this Bill that principle of the Indian Income-tax Act is not followed. Under this Bill every person, who is a share-holder will be bound to pay income-tax although his income is not assessable otherwise. Such sort of provision is not to be found either in section 48 of the Indian Income-tax Act or the corresponding section in the Travancore-Cochin Agricultural Income-tax Act. When you have copied the Travancore Agricultural Income-tax Act, you have inadvertently copied the section in that Act which relates to dividends. The underlying principle of the Indian Income-tax Act in section 48 has been omitted. Section 49 (b) of the Indian Income-tax Act states—

‘Where any dividend has been paid, credited or distributed or is deemed to have been paid, credited or distributed to any of the persons specified in section 3 who is a shareholder of a company which is assessed to income-tax in British India or elsewhere, such person shall be deemed in respect of such dividend himself to have paid income-tax (exclusive of super-tax) at the rate applicable to the total income of a company for the financial year in which the dividend has been paid, credited or distributed or is deemed to have been paid, credited or distributed on so much of the dividend as bears to the whole the same proportion as the amount of income on which the company is liable to pay income-tax bears to the whole income of the company.’

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Even the marginal note to this section 49-B to the Indian Income-tax says: 'Payment of income-tax by company to be deemed payment by the shareholder'. But this you have omitted under this Bill, I think you have deliberately omitted this. Even in the Travancore Agricultural Income-tax Act, there is such a provision. That also you have omitted. You have simply said under clause 44 of this Bill, viz. :

'If any person satisfies the Agricultural Income-tax Officer that the amount of agricultural income-tax paid by him or on his behalf or treated as paid on his behalf for any year exceeds the amount with which such person is properly chargeable under this Act for that year, he shall be entitled to a refund of such excess.'

But you have deliberately omitted section 49-B of the Indian Income-tax Act, which I have read out and which is incorporated in the Travancore Agricultural Income-tax Bill, also. That is why I say the result of this measure of taxation will be to charge the poor people, the poor shareholders. It will be oppressive as far as the poor shareholders are concerned, when you say they will have no right for refund when the company pays income-tax. You ought to know that under the Indian Income-tax it is a recognised principle that the payment of income-tax by a company should be deemed payment by a shareholder. Section 49-B of the Indian Income-tax Act specifically says this. That you have omitted. May be the omission is deliberate or otherwise. But in the actual working it will be oppressive to the poor shareholder. He ought to be saved from the burden of taxation. The burden of taxation should fall on the richer man. This principle is accepted under the Indian Income-tax Act. Even in the Travancore Act, this principle is accepted. But in this Bill, that has not been accepted. I hope the Hon. Revenue Minister, will kindly go into this question. I do not wish to use harsh words. Let him consider what I have said carefully after this Bill is passed and becomes law. Let him bring in a suitable amendment as early as convenient so that the poor people who are assessed to income-tax through a company will have the right of refund."

SRI K. BALASUBRAMANYA AYYAR :—"I second Dr. John's amendment and would like to support what he has said. The clause as it stands reads—

'If any person satisfies the Agricultural Income-tax Officer that the amount of agricultural income-tax paid by him or on his behalf or treated as paid on his behalf for any year exceeds the amount with which such person is properly chargeable under this Act for the year, he shall be entitled to a refund of any such excess.'

The Deputy Leader of the Opposition wants that where any dividend has been paid to a shareholder of a company assessed to income-tax, such person shall be deemed to have paid income-tax at the rate applicable to the total income of the company in the year in which the dividend has been paid and shall be entitled to a refund of the tax paid in accordance with the principle of the Indian Income-tax. What the Deputy Leader of the Opposition says is a

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recognized principle under the Indian Income-tax Act. I wish the Government make the position clear and incorporate what the Deputy Leader of the Opposition wants, when they make the rules :—

* THE HON. SRI M. A. MANICKAVELU :—“ I submit the principle on which this is based is on the basis of the tax on the company and not on the individual. The company is taxed as such. The shareholders are not taxed. No doubt originally there was an idea of pursuing the dividends declared to individuals and tax that also. But we are prevented from taxing the dividends paid to the shareholder. This Bill applies to the company as such. This does not apply to the dividend got by the shareholders. Having left the dividend out of the purview of taxation, there is no case arising for any refund. As regards clause 44, that there should be another provision for refund, I think I will have to add it to the list of items which I had said, I would consider while we make the rules.”

* THE HON. SRI C. SUBRAMANIAM :—“ There is one difficulty in accepting Mr. John's amendment. As far as the State Legislature is concerned, our jurisdiction is limited. We can only tax the agricultural income. We cannot go farther than that. When a dividend is paid to the shareholder, to decide whether it is an agricultural income or not, is a question which has got to be decided. It was referred to the Government of India for their opinion on the matter and they have advised us that it cannot be treated as agricultural income. Therefore, we will not have jurisdiction to tax it. If Mr. John's amendment is accepted, then as dividends cannot be assessed to Income-tax Act, any amount collected from the company as tax will have to be refunded. I do not think we could therefore accept his amendment.

“ As far as Travancore Agricultural Income-tax is concerned, that Act came into existence when it was not part of the Indian Union. They were not bound by the Constitution Act. But we stand on a different footing altogether. That is why we had to change the entire structure of the Act after taking into consideration that we cannot pursue the dividend in the case of shareholders for the purpose of taxation. That is why we took the company as a unit and took the agricultural income of the company as a unit for the purpose of taxation. That is the basis of this legislation. Otherwise we could have pursued the dividend and increased the rate of taxation. Because we could not pursue the dividend, we have stuck to this formula of taking the company as a unit and taxing it and collect the tax from the company as a unit and not from the shareholders. The Indian Income-tax Act is based upon the fact that they can pursue the income to any point. They have absolute jurisdiction which we cannot have, so far as our legislature is concerned. That is why we have to be content with this. Clause 44 provides for the refund of excess amount collected from

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an assessee or his agent. The clause has got to be there. Under these circumstances and in view of the constitutional difficulty, I hope Dr. John will not press his amendment."

3-40 P.m. * DR. V. K. JOHN :—" I am much obliged to the explanations given by the two hon. Ministers. But I am still wanting to put the question whether it will not be oppressive to assess a poor shareholder who does not get an assessable income as dividend from the company. Now, we are not taxing the dividend. Suppose a company pays income-tax, that tax is paid from income, part of which should go as dividend, so that a person who would have got an income of Rs. 1,000, which is not assessable, if he has no other income, Government are taking away Rs. 300 or Rs. 400 by way of income-tax. So, in effect you are charging a person who has not got an assessable income to income-tax for the sin of having joined the company. A number of persons put in their money together. The principle is that you may all put your money together into a partnership or into a limited company. But we look into the income of the company when we are making the assessment. That is the principle on which a refund is made. I would like the Government in spite of the explanation given by the Hon. the Finance Minister, to go into the question as to what would be the practical effect or result of making these assessments on a company and the poor shareholder who has not got an assessable income."

* THE HON. SRI C. SUBRAMANIAM :—" For certain purposes Corporation is a separate legal entity. For certain purposes shareholders are recognized within the Corporation. We are assessing the income-tax on the income derived by the company as such. I do not think that any injustice is involved in this. After all Corporation tax is collected irrespective of the fact whether the shareholder gets any dividend or not. This Corporation tax is also now proposed to be increased from four annas to five annas. That is being collected because they have got jurisdiction, whether a shareholder gets any dividend or not. When we can justify that, I do not think how we cannot justify the collection of a tax like this by the State Government as such."

MR. CHAIRMAN :—" The question is—

'Add the following as clause 43-A :—

" 43-A. Where any dividend has been paid to a shareholder of a company, which is assessed to income-tax under this Act, such person shall be deemed in respect of such dividend to have paid the income-tax at the rate applicable to the total income of the company in the financial year in which the dividend has been paid and shall be entitled to a refund of the tax paid in accordance with the principles followed in the Indian Income-tax Act." "

The amendment was lost.

Clauses 43 to 65 were put and carried.

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THE SCHEDULE.

Part I.

* DR. V. K. JOHN :—“ Mr. Chairman, Sir, I move the amendment standing in my name, namely :—

‘ In item (2), for the words “ Nine pies ” substitute the words “ three pies ”.

‘ In item (3), for the words “ One anna and six pies ” substitute the words “ six pies ”.

‘ In item (4), for the words “ Two annas and six pies ” substitute the words “ ten pies ”.

‘ In item (5), for the words “ Three annas and six pies ” substitute the words “ one anna and two pies ”.

‘ In item (6), for the words “ Four annas ” substitute the words “ two annas ”.

‘ In item (7), for the words “ Five annas and six pies ” substitute the words “ four annas ”.

“ Sir, I want to reduce the rates given in the schedule. The rate given is nine pies in the rupee for Rs. 3,500 and I want to reduce it to three pies. I want to reduce the rate of one anna and six pies in the rupee for the next Rs. 5,000 to six pies. On the next Rs. 5,000 I want to reduce it from two annas and six pies to ten pies, on the next Rs. 5,000 from three annas and six pies to one anna and two pies, on the next Rs. 5,000 from four annas to two annas, and lastly, on the balance from five annas and six pies to four annas. My reason is this. The rate which I have suggested is almost the rate given in the Indian Income-tax Act. First of all people must get accustomed to pay income-tax. It took many many years before the present rate in the Indian Income-tax Act has been fixed. It was very low in the beginning and slowly people got accustomed to it, adjusted to it and they began to pay very high tax.

“ The more important reason for the reduction of rate is that all the deductions or allowances which are given under the Indian Income-tax Act are not provided for in this Bill. When any person, whether he is an individual, a partnership or a company, receives an income, that income has to be appropriated towards various accounts. One is dividend. The other is tax. The third may be reserve fund. A portion may be spent for capital expenditure which is compulsory or otherwise. Number of items are there. Two parties have to share the income. One is a shareholder or the proprietor and the other is the Government. When the Government take away Re. 0-5-6 by way of tax, they take away twice that amount because they have not provided for all deductions. In the nature of this industry, you have to provide for renovations and for expansion. Trees have to be replanted and other areas have to be brought under cultivation. Labour has to be provided for. A number of items of expenditure has to be met. The effect of this taxation measure

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will be that, when the income is ascertained after allotting for expenditure on various accounts, you will find there is only enough money to pay tax to the Government. A shareholder will not get anything and the result will be that people will not invest money into this plantation business. The business in the long run will suffer and the Government also will suffer. Government must be able to give a fair share of the income to the proprietor or shareholder of the estate. By this taxation measure, the shareholder will not be able to get anything from the income of the company. The company will have to provide for various expenditure on account of the peculiar character of the plantation industry because there may be bad seasons and continuous bad seasons. They must have a reserve fund. They must go on putting money for renovation. The company is also saddled with many other items of expenditure. One such item is excise duty levied by the Government of India, i.e., four annas a pound. That also has to be paid by the shareholder or the proprietor. That will go ultimately as a burden on his income. So, if the Government take away income-tax at this rate and give practically nothing to the shareholder or proprietor, that is not good in the interest of people who invest money in the estate. That is not in the interest of the estate, and ultimately not in the interest of the Government. I, therefore, suggest, Sir, that the rate should be reduced.

“I am very pleased that the Government gave up supertax, although it was provided in the original Bill. Government have been kind to do it. Although technically supertax is not there, the rate of tax in fact is very much higher than that a shareholder or proprietor of an estate ought to bear. The tax should not be as much as it is proposed. The industry will suffer. I, therefore, move my amendment that the rates in the schedule should be lowered.”

SRI K. BALASUBRAMANYA AYYAR :—“I second the amendment, Sir.”

* THE HON. SRI M. A. MANICKAVELU :—“Sir, the hon. Member wants reduction of the rates mentioned in the schedule. For his information, I may tell him that in the Assembly there were amendments to the effect that the rates should be increased more or less in the same ratio as he has given here for reducing the rates. In the Assembly, they wanted to increase the rates by four times. Therefore, Sir, the Government examined the question very carefully and they have decided that they should adopt reasonable rates. The reasonable rates are mentioned in the schedule. I oppose the amendment, Sir.”

* DR. V. K. JOHN :—“If the rates are increased in the case of persons who can afford to pay, it would be a different matter. The rates mentioned in the schedule will be applicable to poor and middle-class people also. If the supertax has been given up, it has only helped people with large income. The Government have not at all reduced the rates on poor people.”

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MR. CHAIRMAN :—" The question is—

' In item (2), for the words " Nine pies " *substitute* the words " three pies ".

' In item (3), for the words " One anna and six pies " *substitute* the words " six pies ".

' In item (4), for the words " Two annas and six pies " *substitute* the words " ten pies ".

' In item (5), for the words " Three annas and six pies " *substitute* the words " one anna and two pies ".

' In item (6), for the words " Four annas " *substitute* the words " two annas ".

' In item (7), for the words " Five annas and six pies " *substitute* the words " four annas ".

The amendment was lost.

Part I of the Schedule was put and carried.

Part II of the Schedule was put and carried.

Clause 1 was put and carried.

The Preamble was put and carried.

* THE HON. SRI M. A. MANICKAVELU :—" Sir, I move—

' That the Madras Plantations Agricultural Income-tax Bill, 1954 (L.A. Bill No. 30 of 1954), as passed by the Assembly; be passed.'

Sir, I am very thankful to hon. Members for the various suggestions 3-50
that they have made and especially to the lawyer Members of this P.m.
House who have contributed so much in regard to the discussion
of this Bill. I wish to state that this is the first time that we are
bringing in a Bill to tax agricultural income, though it may be
a particular sector of the agricultural income. We shall see how
this measure works. All the suggestions put forward by hon.
Members will be examined in the course of the working of this
measure, and if any amendments are found necessary, the Govern-
ment will not hesitate to launch upon the necessary amending legis-
lation. With this assurance, Sir, I request hon. Members to
pass this Bill."

* DR. V. K. JOHN :—" Sir, I must congratulate the Hon.
Minister on the very correct attitude he has taken throughout the
discussion of this Bill. He was never obstinate and he was always
willing to learn and appreciate the opposite point of view. I must
say that he has shown great humility in trying to understand that
there is something useful in the suggestions made by the opposition.
I know him for long and I say he is quite sincere and he is not
obstinate. I hope he or some one else will go into all the sugges-
tions made in the other House and also in this House not only

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by Members of the Opposition but also by the Members of the party in power, more particularly Sri K. Bhashyam. I want the Hon. Minister not to forget that this industry is a very important industry and a dollar earning industry too. Therefore we should develop this industry. We have got very extensive acres of land which can be brought under cultivation. Every encouragement must be given to extend cultivation and also to bring into existence new plantations and to renovate the existing ones which are one hundred years old. We must also remember that this is an industry which engages a very large number of workers and pays them well. There are statutes that these workers must be looked after properly and paid properly. The industry engages about four lakhs of workers. Therefore it must be the concern of every hon. Member of this House and also it must be the concern of the public to see that this industry does not suffer, that investment is attracted to it, that cultivation is improved and extended and also that produce is increased and the industry prospers. I quite agree that taxation should be made on the basis of the income. That is the correct procedure to adopt. Probably we could have reduced the rates on plantations if we had imposed a tax on other agricultural produce as other States have done. But the principle that income ought to be taxed and that no indirect tax should be imposed ought to be accepted. I am glad indeed that this Bill has been brought forward, and if some provisions of this Bill could have been amended, it would have been an ideal piece of legislation. Here the Government are having a tax on agricultural income and also realizing land revenue. The Government have given up only the levy of additional land revenue due for last year. They have not given up all land revenue. At least if they had deducted the land revenue payable from the income-tax payable, it would have been a rational piece of legislation. I have asked the Government to go into this matter very carefully. The Government should not think that they have seen the end of this legislation after just passing the Bill into law. Every taxation measure must pass the test whether it enhances the purchasing power of the people or whether it is a burden on the poor people. Also they must consider whether a taxation measure will solve the problem of unemployment and whether in the long run the industry will be encouraged to produce more and to employ more people. I ask the Government to reconsider this taxation measure in the light of the criticisms made. There is no difference between the Government and the Opposition in this matter. We are all for the good Government of the country. We hope the Government will certainly change their views and later on bring in amendments that are required. I once again thank the Hon. Minister for the very helpful attitude that he has shown throughout the discussion of this Bill."

* SRI M. P. GOVINDA MENON :—" Sir, I am very happy to associate myself with the passing of this very important measure. I heartily congratulate our State Government and the Hon. Minister Sri M. A. Manickavelu Naicker, who has brought forward this

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measure. Other State Governments have brought forward this measure already. I am one of those who believe that our taxation measures must be always according to the capacity of each person and the income he receives from his business. I hope this measure is only the beginning of a series of measures which will be brought forward later on by the Government for taxing the people according to their income. I hope this principle will be extended to land revenue also. It is really a bad thing to collect a uniform rate of land revenue from persons who have got very little income and persons who get a very large income. I hope the Government will seriously take into consideration the desirability of extending the principle of this Bill to land revenue also. We have got an example of this in the Travancore-Cochin State. There they have the agricultural income-tax not only on plantations, but also on other agricultural produce. The excuse that is put forward by the various Committees appointed by the Government against the adoption of this principle for purposes of collecting land revenue is that people experience very great difficulty in maintaining accounts. This is only a lame excuse. This difficulty must be overcome. After passing this measure, for which the Government deserve our congratulations, I hope they will also evolve a system of graded income-tax on the income of the people from land."

SRI K. BALASUBRAMANYA AYYAR :—“ Mr. Chairman, 4p.m. with a view to seeing that some improvements to some of the provisions may be accepted by the Government, we sought to move many amendments from this side of the House. This being a Money Bill, hon. Members of this House were unfortunately not represented on the Select Committee. So, we had no chance to say what we felt about the various provisions of the Bill. That is the reason for our trying to move some amendments on the floor of the House. But, unfortunately, the Government are anxious not to send back the Bill to the Assembly and so they find it difficult to accept any of the amendments moved here. Even though those amendments were innocuous and good, the Government could not accept them for incorporation in the Bill. However, the Hon. Minister for Revenue was reasonable enough to say that he would consider some of the amendments and see whether something could be done by providing for them in the rules and if that is not possible he would bring in a suitable amendment after watching the working of the Act for some time. Sir, the Income-tax Act itself is a very difficult Act. It gives rise to lot of complications and lot of case law. Similarly, agricultural income-tax also will give rise to a lot of difficulties and a great amount of litigation. So, it is always better to see that the provisions in the Act are clear by themselves. After all, we cannot expect the Agricultural Income-tax Officer to use his discretion in each and every matter. He must have clear provisions according to which he can act. We must set up proper standards. The provisions must be very clear so that they could be interpreted very strictly. We should see that none of the provisions were unjustly interpreted against the assesses. It is for this purpose that I want that the

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provisions in the enactment should be made very clear. We are only anxious that no case of injustice or hardship should occur by any wrong interpretation of the provisions of the Act. Sir, in this connexion, I wish to refer to clause 9 about which my learned friend Sri Bhashyam has also spoken. Sir, this clause deals with income from settlement, disposition, etc. This clause has been copied from the Indian Income-tax Act which again has been copied from the English Act. Even in England, this provision has given a lot of trouble. In fact, one learned Judge has said about a similar provision in these terms. 'The Legislature in its anxiety to cover a wide net over colourable transactions of settlements has over-reached itself.' This is what the learned Judge has said. There will be many difficulties in actually applying this clause. This clause says, 'In computing the total agricultural income of an assessee, all agricultural income arising to any person by virtue of a settlement or disposition, whether revocable or not, and whether effected before or after the commencement of this Act, from assets remaining the property of the settlor or disponent shall be deemed to be the agricultural income of the settlor or disponent.'

This will give rise to a lot of difficulties in actual working. So, it is better for the Government to re-examine this clause again and to find out whether it would be properly applied to all transactions. As difficulties have arisen even in England in regard to the applicability of this clause, I request the Government to look into this clause 9 and see whether it is possible to amend the clause in accordance with the opinion expressed by us on the floor of the House. Otherwise, it will give trouble. I do not want to expatiate on this point any further as it will only be a waste of time especially at the third reading stage. We have explained our viewpoints and hope that the Government will look into our suggestions.

"We have also moved so many other amendments in respect of other provisions in the Bill. The Hon. the Minister for Revenue was very reasonable. Wherever he himself felt some difficulty, he has agreed to go into the matter and see if it is possible to accept the amendments moved by us. With that assurance at least, we in this side of the House feel satisfied that we have done our best so far as this Bill is concerned. I know very well that in this country we have not yet reached the stage when we need not care for the private sector at all. On the other hand, an assurance was given by the Prime Minister of India himself that the Government would give as much importance to the private sector as to the public sector. So far as coffee, tea and other commercial crops are concerned, they are all largely dependent upon the private sector till now. This is the first time that this State is imposing this agricultural income-tax on plantations. These are valuable crops and their position is fluctuating so to say. They depend upon world markets. I hope and trust that the provisions of the Bill will be applied with that amount of reasonableness, suavity and conscience which is required so that the whole Act may work properly to the satisfaction of everybody concerned the Government, the assesseees and the people."

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* SRI K. BHASHYAM :—“ Mr. Chairman, as I said at the beginning of the discussion, this is a Bill to be welcomed. I hope the Government will find it possible to extend it to other items of agricultural income. According to me, this is the only logical way of taxing those who are capable of bearing the tax. This is not a tax on land. This is a tax on income. We must have such taxes on the income of the persons concerned. As pointed out by the previous speakers, a person must have sufficient income to pay tax. There is no use of asking those who do not have sufficient income to pay the tax. If we tax persons according to the income that they derive, they could contribute some substantial amounts to enable the Government to run the administration and undertake so many welfare measures for the benefit of the poor people who cannot afford to pay large sums to the Government. If I had the authority, I will at once abolish the land tax altogether and introduce the agricultural income-tax in its place. When this is done, persons who are really very poor need not be asked to pay any tax and those who derive good income and who can afford to pay the tax may be asked to pay the same, for the benefit of the general public. This is what is happening in the western countries. I would like to make a suggestion to the Government. If it is not possible to accept my scheme immediately, let them consider it for acceptance at least at a later date or the Government may prescribe a sort of nominal land tax, say about Rs. 2 per acre of punja land and Rs. 5 per acre of nanja land. If this is done the poor people also will be contributing something to the public exchequer. On the other hand, we may have a graded income-tax in respect of the big landholders. If this is done, people who get a large income will be made to pay a greater amount as tax to the Government. This will work very well and the Government will not lose anything by way of revenue. Anyway, I welcome the present measure which has been introduced as an experimental measure. I hope this will lead to the abolition of the land tax altogether and the imposition of the agricultural income-tax.

“ As regards the Bill itself, I have been critical of some of its provisions. I cannot but express my opinion that some of the provisions of the Income-tax Act have been incorporated in this Bill without perhaps critically examining the relevancy or applicability of those provisions here. Secondly, Sir, the cases decided under the Indian Income-tax Act and the interpretation put upon the provisions of that Act have not been paid sufficient attention to by the Government. For example, clause 9 (1) was referred to by the hon. Member, Mr. Balasubramanya Ayyar, who spoke last. I now cite another instance. In respect of joint Hindu families, there is a provision to the effect, that if a joint Hindu family is divided and that if the taxing authority is satisfied that division has taken place *bona fide*, he can allow taxation to be levied on each member thereof. One principle adopted in this Bill is that ‘person’ includes not only an individual but also an association of persons, a joint family, an aliyasanthana family, etc.

4-10
P.M.

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Therefore, in such cases, there need not be any provision regarding partition. If we want to take the provisions relating to the partition of joint Hindu families in the Indian Income-tax Act, then we must also take into account the cases decided by courts with reference to those provisions and the practice adopted by the income-tax authorities in the matter of assessment of such persons to income-tax. Mere agreement between the parties to divide so that they may be tenants in common but not joint tenants will not do. They have to divide by metes and bounds if they want to be assessed to income-tax on the basis of the individual's income. The Bill, as it is at present, does not solve this question. Clause 3 (3) is another stumbling block. It says that in the case of persons holding property as tenants-in-common and deriving agricultural income, the tax shall be assessed at the rate applicable to the agricultural income of each tenant-in-common. It means, in the case of joint Hindu families, the members can ask for individual assessment even if they enter into a family arrangement but not actually divide by metes and bounds. This is one difficulty.

“There are other difficulties also. I said I was critical about some of the provisions of the Bill only because I want them to be improved upon so that they may become definite, strict and certain. In all taxation measures, it is not proper to leave things uncertain. There should be no ambiguities so that not only the individual assessee but also companies assessed may be in a position to adjust their balance sheets in accordance with the clear terms laid down in the Act. In that sense, I wish the Bill had undergone a little more examination and also changes have been made in the light of decisions of courts on similar provisions in the Indian Income-tax Act.

“Sir, some complaint was made about the incidence of taxation. It was said that it was too high. Of course, I quite agree with the Deputy Leader of the Opposition that when we introduce a taxation measure, we must start with a low tax and then go on increasing it little by little. That is true if the Bill relates to new taxation measures. Now we have been accustomed to income-tax all these years. Therefore, this process of gradation is not called for. This agricultural income-tax is only one kind of income-tax. If agricultural income has escaped tax all these years, it is not because it was found inadvisable to tax it but because in the list of subjects enumerated in the Constitution for the States to legislate upon, agriculture finds a place. Land has become a State subject. Otherwise, agricultural income also would have been taxed long ago. So, the omission is just an accident. Therefore, we cannot say that we should wait for people to get accustomed to this tax. Especially in the case of large plantations, the owners are very rich people and they have been accustomed to pay income-tax on their individual income. Therefore, this process of gradation of tax need not much worry us. All that we should see is whether the land which is taxed

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can bear it. I think plantations can. Complaints were of course made that this five and half annas would really cripple the plantation industry since the persons who were in charge of these plantations would find it very difficult to pay the tax and still carry on. Sir, in the report of the Select Committee which went into this Bill, it is stated that one of the witnesses that tendered evidence before it has said that though some companies have declared dividends of 35 per cent, actually the shareholders get only a return of $7\frac{1}{2}$ per cent as the shares have multiplied in value by four or five times. That shows the value of the capital invested originally on the plantations has increased. Therefore, it cannot be said that the income derived by the owners cannot bear this taxation."

SRI K. BALASUBRAMANYA AYYAR :—" For the first six or seven years, they do not pay."

* SRI K. BHASHYAM :—" Here is a statement that some companies have declared dividends extending up to 35 per cent. If they get more profits, they pay more dividends. If they get less, they pay less. Here is also another statement in the same report made by the Hon. the Finance Minister. He says that plantation companies are declaring higher dividends than any other industry. He adds that the proposed agricultural income-tax is to be limited only to five and half annas in the rupee, whereas the income-tax in regard to other industries is much higher. So far as this matter is concerned, unless there is something radically wrong in the statement made by the Finance Minister, I think there is no warrant for us to say that the tax is too high. After all, the amount of tax should be such as to make it worth while collecting. If it should at least be more than the expenses involved in collection, five and half annas is not too much in the circumstances of the present case. Of course, in the case of smaller plantations, there are concessions. Then, there are other clauses which deal with compounding of tax which is also a concession. With all these advantages and concessions shown to the small planters, the tax is not going to be burdensome though in one or two cases it may cause some difficulty. But they cannot form the basis for the argument that there should be wholesale reduction in tax.

" Sir, while I welcome the Bill as a measure in the right direction, I would certainly ask the Hon. the Revenue Minister to see that all the difficulties and ambiguities pointed out are looked into and proper amendments to the Bill are brought as early as possible. I do not want any uncertainty or ambiguity to prevail in any taxation measure like this."

* SRI V. BHASHYAM AYYANGAR :—" Mr. Chairman, I 4-20
wish to join in congratulating the Government on introducing this a.m.
Bill and getting it approved by the Legislature. The principle of
the Bill deserves our hearty support. It is that tax should be
levied on the income which is derived from the land and not on the

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land itself. The Government have made a start by taking up the lands on which commercial crops are grown. But I hope they will also extend the principle to other lands gradually. I do not see any difference between a person who gets income from land and another who gets income from business or trade. Whereas a person getting income from business or trade has not got to pay any tax, unless the income is above a certain limit, the agriculturist, who spends his time and energy for the whole year on land, is obliged to pay tax, whatever his income may be. I want the Government to study this question and revise the principle of taxation with respect to land. They could levy the tax on income and not from the land itself as such. My hon. Friend Mr. Bhashyam said that there should be a basic tax on land whether it is dry or wet. But I do not see why it should be so; such a thing would work hardship on agriculturists. Even though an agriculturist may work for one whole year and get only Rs. 100, he has now to pay tax. Now that we have attained independence and we have the socialistic pattern of society as our ideal, I think it is high time that Government take up this question seriously and revise the system of taxation altogether and convert the land assessment into one of income-tax. A beginning has been made by Government and I hope they will go into the matter further and extend this principle to all lands. With these words I have great pleasure in supporting this Bill which has been placed before the House and ably piloted by the Hon. Revenue Minister."

SRI MOHAMED RAZA KHAN :—" I feel I would be failing in my duty if I do not congratulate my friend Mr. Bhashyam more than the Hon. Minister for Revenue because so far as this particular taxation measure is concerned, he was more anxious than the Minister himself that there should be no change at all made by us in this Bill. That is what he was labouring for for the past three or four days, speaking right through. That is why he even went to the extent of saying that asking planters (of course well-to-do planters) to pay annas five a rupee is after all not too much. Might I say on this occasion that while the Government of Madras will be able to get an income between 30 to 40 lakhs by this measure of taxation, take it from me that from now on, the intensive of plantation industry would be gone for ever. My friend Mr. M. P. Govinda Menon, sitting next to me, says that it will not be so. But might I say, Sir, that plantation industry is not like other industries. If for one or two years the crops fail, it means it will be a total loss for the planter. He cannot easily make up the loss. Or then again if due to failure of monsoon, the flowers do not come earlier, it means all the difference to the planter. He cannot look forward for a good crop. Again unlike the agriculture industry, a planter cannot increase his acreage. It requires a lot of capital. If at all the plantation industry is what it is to-day, it is due to the pioneers who in the later half of 17th century or early part of 18th century went to these places, put their capital, took all the pains to develop that industry; it is they who have brought this industry

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to the forefront. Even according to the Minister's statement, the total acreage under rubber, tea and coffee—all included—is not more than three lakhs of acres. I may tell you it would be very difficult for a planter to have further plantation. But somehow after going through the accounts of the plantation companies and after taking evidence, Government have come to the conclusion and they have fixed the rate in the schedule that the planters could be taxed ranging from half-an-anna to five annas in the rupee. Of course on our side we have two eminent lawyers in the person of Dr. V. K. John and Mr. K. Balasubramania Ayyar, while Mr. Bhashyam dominates on the other side. The lawyers on our side have pointed out how in this Bill the Government have not followed the Indian Income-tax in its entirety and how they have followed it only when it suited them and how on occasions when it did not suit them, they have followed their own method. But somehow the Hon. Minister for Revenue has got the knack of getting through any piece of legislation. I am not laying any charge on him. But I want to say that the Hon. Minister for Revenue has got the knack of getting the approval of the House for any piece of legislation, without his expatiating much on the reasonableness or the necessity for such a taxation measure. Somehow without putting forward weighty arguments, by his nodding of his head and by his smiling face, the Hon. Minister for Revenue gets the measure through. (Laughter.) If members point out two or three points, he says after all they are not very important ones and that they could be adjusted. Somehow the House has got confidence in him and with his smiling face he is able to win through. On this occasion he had so much support from my esteemed friend Mr. Bhashyam that he even went to the extent of saying that diamond cuts diamond."

SRI K. BHASHYAM :—" I did not say " diamond ". The Minister said ' I am a diamond. ' "

SRI MOHAMED RAZA KHAN :—" No doubt you got the encomium of diamond. Of course you are a diamond. It is compliment to you."

SRI T. PURUSHOTHAM :—" Is it parliamentary expression to call a member ' diamond ' ? "

MR. CHAIRMAN :—" Beautiful expression."

SRI MOHAMED RAZA KHAN :—" Unless the hon. Member chooses to call himself otherwise, he is a diamond. But it should be noted, Sir, that sometimes in the process a diamond becomes carbon when it is exposed to fire.

" Several hon. Members have offered their suggestions and view points. I do hope the Hon. Revenue Minister would go through the various points they have raised in this House. In the process of working of this Act, the planters would be put to difficulties, particularly when they have a restricted acreage and even their

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capital expenditure is not allowed to be deducted from the total income. I am sure the Hon. Revenue Minister would not hesitate to bring in an amending Bill, for it will not be surprising because no Act of the Government of Madras remains without coming to us for five or six times for being amended. Therefore I am sure, if the Minister feels that these planters would be put to a good deal of difficulty because of this Bill he would bring in another Bill for amending the present one. While no doubt the Government of Madras has made a beginning with bringing in this agricultural income-tax on plantations, they should at the same time see that the industry is not ruined. That is what I want the Hon. Revenue Minister to take note of. I would like to congratulate the Hon. Minister in conclusion for getting this Bill through."

* SRI A. M. ALLAPICHAJ :—" Mr. Chairman, Sir, in this House we have got some of the eminent advocates in the State, with Sri K. Bhashyam on our side and our friend Dr. John and some other friends on the other side. One of them said that this Income-tax Act is a very difficult Act to understand. Some of the provisions of the Income-tax has been embodied in this Bill which is going to become an Act very soon. I would suggest to Government one thing. When Government want to constitute a Tribunal under the Act, they should see to it that they take the help of the most qualified persons in these subjects. In the Tribunal that will be established under the present Bill, as it is at present worded, they say it may consist of even one Member, but not more than three members. They say one of the three Members must be a Judicial Member. But with regard to the other two, they can be any others. Government have to seriously think about this. This is a difficult Act and many important things will come in before the Tribunal. We have got a lot of people with the best legal training. Why should not Government make the best use of these persons instead of saying that there must be only one member with legal training without saying anything with regard to the other two. There will be then miscarriage of justice. That means there will be appeals. What I wish to say is there is already a feeling that the legal profession is not properly respected and treated at the hands of Government. In a Tribunal like that, there must be room for people with legal training and experience. On the other hand, Government say that there must be one member, who will be a retired District Judge and two other persons in the Tribunal. What will be the result? The two other members will join together and defeat the judicial member and that will lead to miscarriage of justice. As the hon. Deputy Leader of the Opposition so nicely put it, the hon. Minister is very amenable to reason. I would like to suggest to the Hon. Minister that in case if he brings an amendment in future, this point has to be considered by the Government."

DR. V. K. JOHN :—" This is the first time when the hon. Deputy Chairman is criticising the Government."

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SRI A. M. ALLAPICHAJ :—" I am not criticising the Government. The hon. Deputy Leader of the Opposition is making a mistake."

* **THE HON. SRI M. A. MANICKAVELU** :—" I sincerely thank the hon. Deputy Leader of the Opposition and other hon. Members for the kind sentiments they expressed. Most of the hon. Members who took part in this discussion are persons belonging to my profession, i.e., the legal profession. Of course Dr. Srinivasan intervened in the debate some time yesterday. Their remarks as regards the drafting and other implications of the provisions of the Bill are very useful. Sir, I am also very lucky, in that yesterday and to-day the hon. Deputy Leader of the Opposition was not only calm and reasonable, but also very generous and profuse in his nice remarks. I think that it is a case of periodicity in him and I wish that periodicity occurs oftener than usual."

DR. V. K. JOHN :—" I hope the Hon. Minister will be deserving it always."

THE HON. SRI M. A. MANICKAVELU :—" Sir, the principle of taxation has been welcomed. The rationale of the taxation has been accepted and now it only remains to be seen how far this can be worked out with regard to the other sectors of agriculture. No doubt the rationale of it is alright but we must see how far it will be practicable and workable. That is what we are now trying to do. When we know the result of the working of this Act, then there will be time enough to see how far we can extend it to the other sectors of agriculture.

" Sir, it was pointed out that this taxation will work as a hardship on the industry. The other day I gave figures to show that thousands of these individual planters have been exempted. Only very few come in under the purview of this taxation measure and they are mostly Companies. As regards the Companies, from their balance sheets and profit and loss accounts, it is seen that the industry is working well. With regard to individuals, it is not so profitable because they do not have the necessary organization. But the Companies have got the necessary organization and their personnel is good. Many individual planters have been exempted from this tax. A second category of persons are also allowed to compound the tax, so that they may not have the bother of keeping accounts.

" Sir, it was pointed out that the Government did not have the benefit of a Joint Select Committee to consider this Bill. I would have very much welcomed if it was possible for the hon. Members who spoke so elaborately here to serve on the Select Committee, and the whole thing would have been thrashed out

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there. But it is a pity that this being a money Bill, hon. Members of this House could not serve on the Committee. They were welcome to give their suggestions and as a matter of fact, they gave their suggestions. The only grouse is that they could not serve as members of the Select Committee wherein their voice would have been more felt.

"It was mentioned by the hon. Deputy Chairman that there is a provision only for one member of the legal profession to be in the Tribunal. Instead of a complaint, I must take it as a compliment that there is a provision for at least one member of the legal profession to serve in the Tribunal. There is no such reservation for others. That is a compliment to the legal profession. The clause only says that at least one must be a member of the legal profession and there is no bar for more. Even all the three members can be advocates or Judges. There is no objection. It may be necessary to put at least one member who is well-versed with this plantation business. That does not mean that the lawyers or the Judges will not be given due weight.

"Sir, I have already stated that the difficulties and defects pointed out will all be gone into carefully when the rules are framed. There are certain things which could not be overcome by rules and for that, Government will come in with an amending legislation. We feel that there are some difficulties and they should be rectified. The Government will not hesitate to bring in an amending Bill to remove the defects. But we will have to wait and see how this measure works and what all should be done.

"It was stated that if the Government accept any of the amendments the Bill has to go to the Assembly again, and so they are not accepting any amendments. That is not the only reason. Hon. Members have now pointed out certain defects and difficulties. In the actual working of the Act certain other difficulties and defects may arise. After we gain some experience in the working of the Act, if we consider all the defects together at one time we can bring the necessary amendments once and for all. That is why Government are not accepting any of the amendments now, and not simply because there is the difficulty that the Bill has to go to the Assembly again.

"Sir, I wish to thank you also for so nicely conducting the proceedings and avoiding any rancour between myself and the hon. Deputy Leader of the Opposition."

MR. CHAIRMAN :—"The question is—

'That the Madras Plantations Agricultural Income-tax Bill, 1954 (L.A. Bill No. 30 of 1954), as passed by the Assembly, be passed.' "

The motion was carried and the Bill was passed.